

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Whitney Beber	Team: Squad #6	CCRB Case #: 201901376	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/09/2018 2:55 PM, Tuesday, 01/09/2018 2:55 PM, Tuesday, 01/09/2018 2:55 PM	Location of Incident: [REDACTED]	Precinct: 19	18 Mo. SOL 7/9/2019	EO SOL 7/9/2019	
Date/Time CV Reported Wed, 02/13/2019 5:49 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 02/13/2019 5:49 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Brent Andreoli	18794	946621	019 PCT
2. Officers			019 PCT
3. An officer			019 PCT
4. POM Michael Haigh	19316	936724	019 PCT
5. POM Roque Leo	22031	952982	019 PCT
6. POM Christophe Diaz	22533	952675	019 PCT
7. SGT Tiffany Pedroza	01206	952659	020 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michele Damato	04324	953798	019 PCT
2. POM Oliver Liebowitz	21492	959756	113 PCT
3. POM Marcello Massafra	12836	945620	DB CEIS
4. SGT George Brown	125	938120	019 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Brent Andreoli	Force: At § 87(2)(b) in Manhattan, Police Officer Brent Andreoli used physical force against § 87(2)(b)	[REDACTED]
B.POM Michael Haigh	Force: At § 87(2)(b) in Manhattan, Police Officer Michael Haigh used physical force against § 87(2)(b)	[REDACTED]
C.POM Roque Leo	Force: At § 87(2)(b) in Manhattan, an officer used physical force against § 87(2)(b)	[REDACTED]
D.POM Brent Andreoli	Abuse: At § 87(2)(b) in Manhattan, Police Officer Brent Andreoli threatened § 87(2)(b) with the use of force.	[REDACTED]
E.POM Michael Haigh	Abuse: At § 87(2)(b) in Manhattan, Police Officer Michael Haigh threatened § 87(2)(b) with the use of force.	[REDACTED]
F.POM Michael Haigh	Discourtesy: At § 87(2)(b) in Manhattan, Police Officer Michael Haigh spoke discourteously to § 87(2)(b)	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
G.POM Brent Andreoli	Off. Language: At § 87(2)(b) in Manhattan, Police Officer Andreoli made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
H. An officer	Discourtesy: At § 87(2)(b) in Manhattan, an officer spoke discourteously to § 87(2)(b)	
I. Officers	Abuse: At § 87(2)(b) in Manhattan, officers threatened § 87(2)(b) with the use of force.	
J.POM Brent Andreoli	Abuse: At § 87(2)(b) in Manhattan, Police Officer Brent Andreoli threatened § 87(2)(b) with the use of force.	
K. Officers	Discourtesy: At § 87(2)(b) in Manhattan, officers spoke discourteously to § 87(2)(b) at § 87(2)(b) in Manhattan.	
L. An officer	Abuse: At § 87(2)(b) in Manhattan,,an officer threatened § 87(2)(b) with the use of force.	
M.SGT Tiffany Pedroza	Abuse: Sergeant Tiffany Pedroza entered § 87(2)(b) in Manhattan.	
N.POM Christophe Diaz	Abuse: Police Officer Christophe Diaz entered § 87(2)(b) Apt. 5D in Manhattan.	
O.SGT Tiffany Pedroza	Force: Inside of § 87(2)(b) Sergeant Tiffany Pedroza used physical force against § 87(2)(b)	
P. Officers	Abuse: At § 87(2)(b), officers threatened § 87(2)(b) with the use of force.	
Q. Officers	Force: Outside of § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)	
R. An officer	Force: Outside of § 87(2)(b) in Manhattan, an officer tightly handcuffed § 87(2)(b)	
S.POM Brent Andreoli	Abuse: At the 19th Precinct stationhouse, Police Officer Brent Andreoli disseminated information regarding § 87(2)(b)'s medical status.	
T.POM Brent Andreoli	Abuse: At the 19th Precinct stationhouse, Police Officer Brent Andreoli disseminated information regarding § 87(2)(b)'s medical status.	
U.POM Michael Haigh	Abuse: At the 19th Precinct stationhouse, Police Officer Michael Haigh disseminated information regarding § 87(2)(b)'s medical status.	
V.POM Michael Haigh	Abuse: At the 19th Precinct stationhouse, Police Officer Michael Haigh disseminated information regarding § 87(2)(b)'s medical status.	
W. An officer	Off. Language: At the 19th Precinct stationhouse, an officer made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	

### Case Summary

On February 13, 2019, § 87(2)(b) filed a complaint with the CCRB via the online website. This case was originally closed pending litigation and reopened October 4, 2019.

On January 9, 2018, at approximately 2:55 p.m. a § 87(2)(b) in Manhattan, PO Brent Andreoli and PO Michael Haigh of the 19<sup>th</sup> Precinct knocked on § 87(2)(b)'s apartment door, in response to a call about criminal mischief. § 87(2)(b) was asked to step outside and once in the hallway, both officers allegedly punched him (**Allegations A and B, Force, § 87(2)(g)**). Additional officers from the 19<sup>th</sup> Precinct responded. PO Roque Leo allegedly jumped on § 87(2)(b)'s chest, breaking his ribs, and continued to kick him (**Allegation C, Force, § 87(2)(g)**). PO Andreoli threatened to use a taser against § 87(2)(b) (**Allegation D, Abuse of Authority, § 87(2)(g)**). PO Haigh allegedly held an unknown weapon against § 87(2)(b)'s head and said, "I'll do it motherfucker," (**Allegations E, Abuse of Authority and F, Discourtesy, § 87(2)(g)**). PO Andreoli allegedly whispered faggot in § 87(2)(b)'s ear (**Allegation G, Offensive Language, § 87(2)(g)**). PO Christopher Diaz and PO Tiffany Pedroza of the 19<sup>th</sup> Precinct also responded. An unidentified officer told § 87(2)(b) they [officers] were there to, "Save his ass," (**Allegation H, Discourtesy, § 87(2)(g)**). Unidentified officers allegedly threatened to murder and shoot § 87(2)(b) (**Allegation I, Abuse of Authority, § 87(2)(g)**). § 87(2)(b)'s partner and roommate, § 87(2)(b) exited the residence and stood in the hallway. PO Andreoli pointed his taser at § 87(2)(b) and told him to get inside (**Allegation J, Abuse of Authority, § 87(2)(g)**). An officer told § 87(2)(b) "Get out of here before I fucking shoot you," (**Allegations K and L, Abuse of Authority and Discourtesy, § 87(2)(g)**). After § 87(2)(b) reentered his apartment, § 87(2)(b) was arrested and escorted outside. § 87(2)(b) followed behind and requested that officers retrieve shoes for § 87(2)(b). PO Pedroza and PO Diaz allowed § 87(2)(b) to enter the residence and entered behind him (**Allegations M and N, Abuse of Authority, § 87(2)(g)**). PO Pedroza shoved § 87(2)(b) back with her upper body (**Allegation O, Force, unfounded**). § 87(2)(b) was transported to a hospital where he alleged officers threatened to mutilate his genitals (**Allegation P, Abuse of Authority, § 87(2)(g)**). Following § 87(2)(b)'s arrest, § 87(2)(b) went outside his residence and officers allegedly dragged him onto the street and arrested him (**Allegation Q, Force, § 87(2)(g)**). An officer allegedly tightened the handcuffs, (**Allegation R, Force, § 87(2)(g)**). § 87(2)(b) was brought to the 19<sup>th</sup> Precinct stationhouse where he alleged PO Andreoli and PO Haigh discussed his and § 87(2)(b)'s HIV status at the front desk (**Allegations S, T, U and V, Abuse of Authority, § 87(2)(g)**). When § 87(2)(b) returned from the hospital and arrived at the 19<sup>th</sup> Precinct, he heard an officer say he needed to get AIDS tested because he punched a faggot in the face (**Allegation W, Offensive Language, § 87(2)(g)**).

§ 87(2)(b), § 87(2)(a) CPL 160.50

§ 87(2)(b)'s arrest was sealed and he did not return unsealing orders. No officers were equipped with BWC at the time of this incident.

### **Findings and Recommendations**

**Allegation (A) Force: At § 87(2)(b) in Manhattan, Police Officer Brent Andreoli used physical force against § 87(2)(b)**

**Allegation (B) Force: At § 87(2)(b) in Manhattan, Police Officer Michael Haigh used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) resisted arrest and that PO Haigh punched § 87(2)(b). The cell phone footage § 87(2)(b) provided did not depict the onset of this incident.

At the 43 second time stamp of the video footage, PO Haigh and PO Andreoli pulled § 87(2)(b) down a hallway (BR05). § 87(2)(b) stopped, clutched the hallway bannister and pulled away from PO Andreoli. At 1:34 minutes, PO Andreoli knelt next to § 87(2)(b)'s side. At 1:50 minutes, § 87(2)(b) repeatedly told § 87(2)(b) to relax. § 87(2)(b) stood about five feet away from § 87(2)(b) and PO Andreoli. Between the 2:00-2:15 minutes of the video footage, officers struggle in a narrow and cluttered hallway. The video did not depict officers punch § 87(2)(b) or how § 87(2)(b) ended up on the floor.

§ 87(2)(b) testified that when he opened his apartment door, PO Haigh and PO Andreoli, asked him to step outside. The officers never mentioned that § 87(2)(b) engaged in criminal mischief. In the hallway, PO Haigh and PO Andreoli punched § 87(2)(b) approximately 50 times in his chest, face and ears. § 87(2)(b) clung to the hallway bannister. Officers repeatedly told § 87(2)(b) to let go of the bannister but he refused. During a phone interview with the CCRB he denied destroying property in the building but admitted that he was on drugs at the time of the incident.

§ 87(2)(b) testified that he heard knocking on the door and voices shout for § 87(2)(b) to exit. The officers, PO Haigh and PO Andreoli, stated they needed to speak to § 87(2)(b) about vandalism in the building, which § 87(2)(b) told them he knew nothing about. Eventually, § 87(2)(b) opened the door. PO Haigh and PO Andreoli grabbed § 87(2)(b) by the wrists and yanked him outside of the apartment. From his vantage point, § 87(2)(b) could see § 87(2)(b)'s body pulled beyond the officers and land by the bannister in the hallway. § 87(2)(b) grabbed the bannister. PO Haigh and PO Andreoli punched § 87(2)(b) in the eyes four six times.

PO Andreoli testified that he and PO Haigh responded to the location due to a vandalism call from the superintendent. The superintendent showed the officers various damage to the building caused by § 87(2)(b). PO Haigh, PO Andreoli and the superintendent went to § 87(2)(b) to arrest § 87(2)(b). When they knocked, § 87(2)(b) answered and stepped into the hallway. After the superintendent identified § 87(2)(b) the officers told him he was under arrest. The officers went to handcuff § 87(2)(b) and he flailed his arms, kicked, pulled away and tried to get back into his apartment. PO Andreoli told § 87(2)(b) to stop resisting multiple times and instructed him to put his hands behind his back. The officers pulled § 87(2)(b)'s arm to handcuff him. PO Andreoli did not punch § 87(2)(b) or see PO Haigh do so. PO Andreoli did not know how § 87(2)(b) was brought to the floor. However, once on the floor, PO Andreoli put his knee on § 87(2)(b) to restrain and attempt to handcuff him. PO Andreoli called for additional units because they were unable to handcuff § 87(2)(b).

While PO Andreoli testified that the superintendent of the building was present, the video confirmed that the superintendent was not on the § 87(2)(b). Therefore, he was not contacted.

§ 87(2)(g) After he and PO Andreoli informed § 87(2)(b) he was under arrest for criminal mischief, § 87(2)(b) physically refused to be handcuffed. PO Haigh tried to grab § 87(2)(b) and place him against the hallway wall. After PO Haigh got one of § 87(2)(b)'s arms behind his back, § 87(2)(b) pulled it away. § 87(2)(b) swung his arms at the officers and tried to get past PO Haigh and PO Andreoli. PO Haigh did not remember if § 87(2)(b) made physical contact with the officers. § 87(2)(b) did not comply with the orders to stop resisting. § 87(2)(b) appeared under the influence, but PO Haigh could not describe what aspects of § 87(2)(b)'s behavior suggested this. In an effort to gain control, PO Haigh punched § 87(2)(b) three to four times prior. PO Haigh did not know what part of § 87(2)(b)'s body he punched. The punches did not aid in getting § 87(2)(b) to comply and submit to the handcuffs. PO Haigh did not kick or use any other force against § 87(2)(b).

The TRI prepared by PO Haigh noted that he used a hand-strike, a foot-strike, and a forcible take down. It also noted that § 87(2)(b) used a hand-strike, foot-strike, wrestled/grappled, pushed and shoved the officers (BR06). PO Haigh sustained a broken right pinky finger. The photographs attached to the TRI depict PO Haigh's right pinky finger in a brace. A photo of § 87(2)(b) was included and showed bruising by his left eye.

The TRI prepared by PO Andreoli's noted that he used a hand-strike and forcible takedown (BR07). It noted that § 87(2)(b) pushed and shoved officers. PO Andreoli sustained scratches to his face and pain to his wrist and hand. It noted that § 87(2)(b) sustained minor lacerations and abrasions.

§ 87(2)(b)'s arrest photograph showed red/purple bruising around and below his right eye, on his right eye lid and some lacerations along his left eyebrow bone. Both eyes appeared bloody.

There was no record of a medical treatment of prisoner report. In addition, as § 87(2)(b) was interviewed over the phone and did not return HIPAA forms, no medical records were obtained.

Force may be used when it is reasonable to ensure the safety of a member of service or third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody Patrol Guide 221-01 (BR14).

§ 87(2)(b) admitted that he prevented his arrest by actively resisting, pulling away from the officers and grabbing onto the bannister. During his CCRB interview, he also admitted that he was under the influence of narcotics. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

**Allegation (C) Force: At § 87(2)(b) in Manhattan, Police Officer Roque Leo used physical force against § 87(2)(b)**

The video did not depict PO Leo jump on § 87(2)(b)

§ 87(2)(b) testified that during the struggle with PO Haigh and PO Andreoli, additional officers responded. § 87(2)(b) testified that an officer described as an approximately 6'0" tall black male without facial hair, jumped on him, causing his ribs to fracture. PO Leo continued to hover over § 87(2)(b) and kick him. As § 87(2)(b) was interviewed over the phone and did not return correctly completed HIPAA forms, no medical records were obtained.

§ 87(2)(b) corroborated § 87(2)(b)'s testimony but added that when this occurred, § 87(2)(b) was face down, lying on his chest. He described the officer as a 5'10" tall, black male with, a stocky build and a mustache.

PO Leo was the only black male officer that responded to the incident. However, he denied jumping on or kicking § 87(2)(b). PO Leo saw officers fall on § 87(2)(b) as a result of the congestion in the hallway and being bumped, but he did not know who. PO Leo noted on his CCRB pedigree sheet that he is § 87(2)(b). PO Leo's TRI notes that he arm-wrestled § 87(2)(b) and did not use any other force (BR08).

None of the interviewed officers saw an officer jump on § 87(2)(b)

The officers denied they saw an officer jump on § 87(2)(b) and the video did not capture an officer do so. § 87(2)(g)

**Allegation (D) Abuse of Authority: At § 87(2)(b) in Manhattan, Police Officer Brent Andreoli threatened § 87(2)(b) with the use of force.**

At 1:50 minutes of the video media player, § 87(2)(b) repeatedly told § 87(2)(b) to relax. At the 1:58 minute time stamp, § 87(2)(b) lied on his back. PO Andreoli knelt next to § 87(2)(b). § 87(2)(b) moved his right arm and tried to raise part of his body off the ground. The rest of § 87(2)(b)'s body was not captured on camera. At the 2:06 minute time stamp, PO Andreoli held his taser near the bannister, above § 87(2)(b)'s body while § 87(2)(b) lay on the floor. Given § 87(2)(b)'s angle as he filmed, it was not clear which part of § 87(2)(b)'s body the taser was pointed. The taser was not pressed against § 87(2)(b)'s head. Additional officers were present at the scene at this time.

§ 87(2)(b) testified that after additional officers arrived, he felt either a taser or firearm against his head. Due to his angle, he could not see the weapon.

§ 87(2)(b) testified that § 87(2)(b) was lay on his chest but fought to keep his head up by moving his head. § 87(2)(b) was not doing anything else with his body. PO Andreoli pointed the taser at the back of § 87(2)(b)'s head while he was lay on the floor.

PO Andreoli testified that when he tried to handcuff § 87(2)(b) flailed his arms, pulled away and kicked. He and PO Haigh pulled § 87(2)(b) down the hallway to detain him. PO Andreoli asked § 87(2)(b) several times to stop resisting. Then he informed him that if he did not stop, he would be tasered. Initially during his statement, PO Andreoli stated he pointed his taser at § 87(2)(b) while he tried to arrest him but then stated he did not remember whether he did so.

PO Haigh told PO Andreoli to taser § 87(2)(b) but he did not see him point his taser at § 87(2)(b). PO Damato and PO Liebowitz did not see an officer with their taser out of its holster.

A CEW should only be used against someone who is actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present. It is prohibited to use a CEW in situation that do not require the use of physical force. The Patrol Guide defines active resisting as physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, pushing or verbally signally an intention to avoid or prevent being taken into or retained in custody, Patrol Guide Section 221-08(BR15).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

**Allegation (E) Abuse of Authority: At § 87(2)(b) in Manhattan, Police Officer Michael Haigh threatened § 87(2)(b) with the use of force.**

**Allegation (F) Discourtesy: At § 87(2)(b) in Manhattan, Police Officer Michael Haigh spoke discourteously to § 87(2)(b)**

PO Haigh is depicted in the video with blonde hair and black sunglasses. The video did not depict PO Haigh hold a weapon against § 87(2)(b)'s head or say, "I'll do it motherfucker." § 87(2)(b) walked in and out of his apartment as he filmed.

§ 87(2)(b) testified that another officer, held a weapon against his head and said, "I'll do it motherfucker." He described this officer as wearing dark sunglasses,

§ 87(2)(b) testified that PO Andreoli pointed a taser at the back of § 87(2)(b)'s head but he did not see what PO Haigh had in his hand. § 87(2)(b) described PO Haigh as an approximately 6'0" tall uniformed white male with red hair, an average build, wearing sunglasses. PO Haigh used profanity throughout the incident but could not specify any statements.

PO Haigh did not have his firearm out during the incident, and he was not equipped with a taser. PO Haigh denied holding a gun or taser to § 87(2)(b)'s head and/or saying "I'll do it motherfucker."

PO Andreoli, PO Liebowitz and PO Damato denied seeing PO Haigh with his firearm or taser out of its holster and/or hearing an officer say, "I'll do it motherfucker." PO Damato identified PO Haigh as the officer in the video with blonde hair and wearing black sunglasses.

Neither § 87(2)(b) nor § 87(2)(b) saw what weapon PO Haigh had in his hand and the video did not capture PO Haigh with a weapon in his hand. Further PO Haigh was not equipped with a taser. The video captured the time frame in which these allegations would have occurred.

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation (G) Offensive Language: At § 87(2)(b) in Manhattan, Police Officer Brent Andreoli made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)**

§ 87(2)(b) stated that during the physical struggle, an officer, with brunette hair, whispered the word "faggot" in his ears and laughed that he had AIDS. § 87(2)(b) stated this was the same officer with brunette hair who pointed a taser or gun at his head.

This remark was not captured on video footage.

§ 87(2)(b) did not hear an officer refer to § 87(2)(b) as a faggot with AIDS.

Based on the physical description provided by § 87(2)(b) this allegation was pleaded to PO Andreoli. PO Andreoli denied he whispered faggot in § 87(2)(b)'s ear. In addition, all the officers interviewed stated they did not hear an officer make these remarks.

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation (H) Discourtesy: At § 87(2)(b) in Manhattan, an officer spoke discourteously to § 87(2)(b)**

**Allegation (I) Abuse of Authority: At § 87(2)(b) in Manhattan, officers threatened § 87(2)(b) with the use of force.**



§ 87(2)(b) testified that one of the additional female officers who responded told § 87(2)(b) they were there to, “save his ass.” § 87(2)(b) described this officer as an approximately 5’2” tall uniformed Puerto-Rican or Dominican female with a light brown complexion, an average build and fake lashes. He did not obtain her name or shield number. § 87(2)(b) alleged that officers threatened to murder and shoot him in the head. He did not specify which officers these were.

PO Pedroza, who has since been promoted to sergeant, denied that she told § 87(2)(b) she was there to, “save his ass,” or that she threatened to murder or shoot him. Moreover, she denied speaking with § 87(2)(b) throughout the entire incident. PO Pedroza was the first female officer on scene, and she did not know if any female officers arrived later. PO Pedroza noted on her CCRB pedigree sheet that she is a § 87(2)(b)

All the other interviewed officers denied hearing an officer tell § 87(2)(b) that they were there to, “save his ass.” All the interviewed officers denied threatening to murder or shoot § 87(2)(b) or that they heard another officer do so.

The video footage captured two female officers on scene but did not capture them interact with § 87(2)(b). The video did not capture an officer tell § 87(2)(b) they were there to, “save his ass,” or threaten to murder or shoot § 87(2)(b). The EVENT for this incident expired.

§ 87(2)(g)

**Allegation (J) Abuse of Authority: At § 87(2)(b) in Manhattan, Police Officer Brent Andreoli threatened § 87(2)(b) with the use of force.**

It is undisputed that PO Andreoli pointed his taser at § 87(2)(b) and ordered him back inside his residence.

At the 2:06 minute time stamp, PO Andreoli held his taser near the bannister, above § 87(2)(b)'s body while § 87(2)(b) lay on the floor. At the 2:09 minute time stamp, PO Andreoli pointed his taser at § 87(2)(b) as he stood in the hallway, outside his apartment (BR05). An officer told § 87(2)(b) to stop and to get away.

§ 87(2)(b) testified that he observed the incident from inside the apartment with the door open. PO Andreoli pointed the taser at his face and told him to close the door and get inside. Every time § 87(2)(b) opened the door, PO Andreoli pointed the taser at § 87(2)(b)'s face.

PO Andreoli testified that when he and PO Haigh tried to pull § 87(2)(b) and gain control, § 87(2)(b) tried to get § 87(2)(b) into the apartment. § 87(2)(b) tried to pull § 87(2)(b) back into the apartment. § 87(2)(b) did not interact physically with the officers. § 87(2)(b) was within arm's reach of the officers. PO Andreoli told § 87(2)(b) to go back inside his apartment. § 87(2)(b) went in and out of his apartment. PO Andreoli pointed his taser at § 87(2)(b) when he approached them in the hallway because at the time, the officers

were attempting to effect § 87(2)(b)'s arrest and PO Andreoli did not know § 87(2)(b)'s demeanor.

PO Haigh stated that § 87(2)(b) repeatedly entered the hallway and came within a couple feet of him, PO Andreoli and § 87(2)(b). PO Haigh and PO Andreoli told § 87(2)(b) to go back inside and stay there, numerous times, so he would stop interfering with the arrest, to make it easier to arrest § 87(2)(b) and for the officers' safety. PO Haigh was not sure if § 87(2)(b) was armed or what his intention. As a result, PO Haigh was concerned for his safety. § 87(2)(b) filmed the incident with a cell phone and was in and out of the apartment. § 87(2)(b) came within a couple of feet of § 87(2)(b) PO Andreoli and PO Haigh.

PO Pedroza stated that § 87(2)(b) stood less than two to three feet from the officers. She did not remember if he stood still or moved around. PO Pedroza told § 87(2)(b) to move back.

A CEW should only be used against someone who is actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present. It is prohibited to use a CEW in situation that do not require the use of physical force. Active aggression is a threat or over act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent, Patrol Guide Section 221-08 (BR15)

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**Allegation (K) Abuse of Authority: At § 87(2)(b) in Manhattan, an officer threatened § 87(2)(b) with the use of force.**

**Allegation (L) Discourtesy: At § 87(2)(b) in Manhattan, an officer spoke discourteously to § 87(2)(b)**

At the 2:11 minute time stamp, an officer was heard comment to § 87(2)(b) "Get out of here before I fucking shoot you," (BR05). It was not clear which officer made this statement.

§ 87(2)(b) did not allege an officer threatened to shoot him.

PO Pedroza and PO Diaz listened to 2:00 minutes through 2:11 minutes of the video footage, and heard an officer say at the 2:11 minute mark, "Get out of here before I fucking shoot you," but

they did not recognize voice. Upon viewing the video footage, Sgt. Brown, PO Massafra, PO Damato, PO Liebowitz, PO Andreoli, PO Leo and PO Haigh denied hearing this comment.

§ 87(2)(g)

**Allegation (M) Abuse of Authority: Police Officer Pedroza entered** § 87(2)(b) **in Manhattan.**

**Allegation (N) Abuse of Authority: Police Officer Christopher Diaz entered** § 87(2)(b) **in Manhattan.**

At the 8:28 minute time stamp of the video media player, an officer told § 87(2)(b) to go inside his apartment to retrieve shoes for § 87(2)(b) (BR05). § 87(2)(b) responded that they were not coming in. An officer's voice is heard ask where § 87(2)(b)'s shoes and ID were located. At the 9:19 and 9:37 minute mark of the video, PO Pedroza and PO Diaz are observed inside § 87(2)(b)'s apartment.

§ 87(2)(b) testified that as it was cold out, and § 87(2)(b) did not have shoes on, he asked the officers for permission to retrieve shoes from his residence. The officers did not give § 87(2)(b) an opportunity to do so. PO Pedroza entered their apartment.

PO Pedroza stated that after the officers handcuffed § 87(2)(b) § 87(2)(b) stated he wanted to get shoes or socks for § 87(2)(b) entered the apartment which was a few feet from the incident. PO Pedroza put her body in the doorway and watched § 87(2)(b) retrieve the shoes. PO Pedroza told § 87(2)(b) to hurry up. § 87(2)(b) continued to yell but she did not know what he said. PO Pedroza did not remember if § 87(2)(b) ever said that he did not want her in the apartment. When asked if she asked permission to enter, PO Pedroza stated she just followed behind § 87(2)(b) when he entered the apartment. PO Pedroza went with him to make sure he did not emerge with a weapon or anything that could hurt them.

PO Diaz viewed the video footage at 9:35 minutes through 9:49 minutes and confirmed he was inside § 87(2)(b)'s apartment as § 87(2)(b) entered to retrieve shoes for § 87(2)(b) PO Diaz did not remember if he asked § 87(2)(b) permission to enter the apartment but recalled he was never asked to leave.

An emergency is any sudden, unexpected state of affairs that calls for immediate action. In People v. Boyd, 123 Misc. 2d 634 (1984), the court determined that an officer was justified in allowing a victim of a robbery to retrieve a few items of clothing from his attacker's apartment because he was barefoot, almost naked, cold and uncomfortable and no replacement garments were readily available (BR09).

The video § 87(2)(b) filmed, captured officers direct § 87(2)(b) to retrieve § 87(2)(b)'s shoes and identification. This incident occurred in January and § 87(2)(b) was without shoes at the time he was arrested. § 87(2)(g)

§ 87(2)(g)

**Allegation (O) Force: Inside of § 87(2)(b) in Manhattan Sergeant Pedroza used physical force against § 87(2)(b)**

§ 87(2)(b) testified that PO Pedroza was the first officer to enter his apartment. She shoved him with her upper body.

PO Pedroza denied using physical force against § 87(2)(b) § 87(2)(g)

**Allegation (P) Abuse of Authority: At § 87(2)(b), officers threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) alleged that while at the hospital, officers joked about mutilating his genitals with rusty knives. § 87(2)(b) did not describe or identify these officers. § 87(2)(b) incorrectly completed HIPAA forms and was uncooperative/unavailable in providing new copies.

Neither PO Massafra nor PO Diaz knew that § 87(2)(b) was brought to the hospital. PO Massafra, PO Haigh, Sgt. Brown, Sgt. Pedroza, PO Leo and PO Liebowitz testified that they did not know which officers accompanied § 87(2)(b) to the hospital. PO Damato and PO Liebowitz did go to § 87(2)(b), for injuries PO Liebowitz sustained. Neither officer encountered § 87(2)(b) while at the hospital. PO Haigh also went to the hospital for injuries sustained but did not encounter § 87(2)(b)

PO Andreoli's memo book confirmed he was administrative at the stationhouse during the time § 87(2)(b) was at the hospital (BR11).

An EVENT was requested but was no longer available at the time of the request.

§ 87(2)(g)

**Allegation (Q) Force: Outside of § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b) outside.**

**Allegation (R) Force: Outside of § 87(2)(b) in Manhattan, an officer tightly handcuffed § 87(2)(b)**

§ 87(2)(b) testified that after § 87(2)(b) was transported to the hospital, PO Andreoli approached him and handcuffed him. Additional officers dragged § 87(2)(b) into a patrol vehicle. Originally the handcuffs were not secured very tightly, but an officer tightened the handcuffs. § 87(2)(b) sustained lacerations on his wrist because of the handcuffs.

§ 87(2)(b) did not witness this portion of the incident and video footage did not capture it.

PO Andreoli, PO Haigh, PO Massafra, Sgt. Pedroza, PO Diaz, PO Damato, PO Leo, Sgt. Brown and PO Liebowitz denied dragging or seeing another officer drag § 87(2)(b) across the street. The officers denied seeing § 87(2)(b) in handcuff and thus could not state an officer adjusted his handcuffs.

§ 87(2)(g)

**Allegation (S) Abuse of Authority: At the 19<sup>th</sup> Precinct stationhouse, Police Officer Brent Andreoli disseminated information regarding § 87(2)(b)'s medical status.**

**Allegation (T) Abuse of Authority: At the 19<sup>th</sup> Precinct stationhouse, Police Officer Brent Andreoli disseminated information regarding § 87(2)(b)'s medical status.**

**Allegation (U) Abuse of Authority: At the 19<sup>th</sup> Precinct stationhouse, Police Officer Michael Haigh disseminated information regarding § 87(2)(b)'s medical status.**

**Allegation (V) Abuse of Authority: At the 19<sup>th</sup> Precinct stationhouse, Police Officer Michael Haigh disseminated information regarding § 87(2)(b)'s medical status.**

It is undisputed that PO Andreoli was aware of and discussed § 87(2)(b)'s HIV status at the 19<sup>th</sup> Precinct stationhouse with a supervisor at the stationhouse.

§ 87(2)(b) testified that at the 12<sup>th</sup> Precinct stationhouse, through a set of glass doors, he heard PO Haigh and PO Andreoli, discuss his and § 87(2)(b)'s HIV status at the front desk. The officers said they would have to get tested for AIDS because § 87(2)(b) bled.

PO Andreoli sustained a scratch on his head during the scuffle and there was blood on him. At the 19<sup>th</sup> Precinct stationhouse, he and his supervisor discussed him getting checked out. PO Andreoli's supervisor made him go to the hospital, and that was how he learned § 87(2)(b) was HIV positive. At the front desk, § 87(2)(b)'s HIV status was asked, but that was the extent of the conversation. PO Andreoli did not disseminate § 87(2)(b)'s medical status to anyone at the stationhouse. The desk officer asked PO Andreoli if he wanted to go to the hospital. PO Andreoli did not disseminate § 87(2)(b)'s or § 87(2)(b)'s HIV status to anyone at the stationhouse and he did not remember an officer doing so. PO Andreoli replied that he did not. PO Haigh did not remember being aware that § 87(2)(b) or § 87(2)(b) had AIDS.

PO Haigh, PO Liebowitz, PO Leo, PO Damato, PO Pedroza or PO Diaz heard officers discuss or disseminate § 87(2)(b) or § 87(2)(b)'s HIV status or mention a need for an AIDS test.

§ 87(2)(g)

**Allegation (W) Offensive Language: At the 19<sup>th</sup> Precinct stationhouse, an officer made remarks to § 87(2)(b) based upon the perceived sexual orientation of**

§ 87(2)(b)

§ 87(2)(b) stated that inside the 19<sup>th</sup> Precinct cell area, he heard an officer say they needed to get AIDS tested because they punched a faggot in the face. § 87(2)(b) could not provide a physical description of the officers that made that remark.

§ 87(2)(b) did not hear an officer refer to § 87(2)(b) as a faggot with AIDS.

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR03).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR04).
- PO Andreoli has been a member of service for 11 years and has been a subject in two other CCRB complaints and three other allegations, none of which were substantiated.  
§ 87(2)(g)
- PO Haigh has been a member of service for 15 years and has been a subject in three other CCRB complaints and six other allegations, three of which were substantiated.
  - Case number 201212334 involved substantiated allegations of force and discourtesy against PO Haigh. The Board recommended charge and the NYPD imposed the forfeiture of five vacation days.
  - § 87(2)(g)
- PO Diaz has been a member of service for seven years and has been a subject in four other CCRB complaints and a victim in seven other allegations, none of which were substantiated. § 87(2)(g)
- PO Pedroza has been a member of service for seven years and has been a subject in one other CCRB complaint and one other allegation, which was not substantiated. § 87(2)(g)
- PO Leo has been a member of service for seven years and has been a subject in one other CCRB complaint and five other allegations, none of which were substantiated. § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b)

- § 87(2)(b) [REDACTED]
- As of March 17, 2020, the NYC Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR12).

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Squad No: 6

Investigator:	Whitney Beber	Inv. Whitney Beber	4/10/2020
	Signature	Print Title & Name	Date
Squad Leader:	__Jessica Pena	IM Jessica Pena	4/10/2020_____
	Signature	Print Title & Name	Date